

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS

No. 6:22-cv-00026

James Finch,
Plaintiff,

v.

Texas Department of Public Safety et al.,
Defendants.

ORDER

Plaintiff James Finch, proceeding pro se and *in forma pauperis*, filed a civil-rights lawsuit pursuant to 42 U.S.C. § 1983 in another court. This case was severed from the original action, transferred to this court for proper venue, and referred to United States Magistrate Judge K. Nicole Mitchell pursuant to 28 U.S.C. § 636(b). The plaintiff filed an amended complaint limited to the claims before this court on February 7, 2022. Doc. 5.

On February 9, 2022, the magistrate judge issued a report recommending that the Anderson County Sheriff's Department be dismissed as a defendant to this suit pursuant to 28 U.S.C. § 1915(e)(2). Doc. 8. The report observed that claims against the remaining defendants were proceeding pursuant to a contemporaneously entered order. *Id.* at 1. Plaintiff filed timely objections. Doc. 12.

The court reviews the objected-to portions of a magistrate judge's report and recommendation de novo. Fed. R. Civ. P. 72(b)(3); 28 U.S.C. § 636(b)(1). The magistrate judge recommended dismissal of the Anderson County Sheriff's Department because it is clearly established that police departments in Texas are not separate legal entities subject to suit under § 1983. Doc. 8 at 3–4. Plaintiff's objections concern the liability of the former sheriff, who has already been ordered to respond to the plaintiff's claims, and do not refute the basis for dismissal of the Department. Doc. 12.

Having reviewed the magistrate judge's report de novo and being satisfied that it contains no error, the court overrules plaintiff's objections and accepts the report's (Doc. 8) findings and recommendation. The court dismisses the plaintiff's claims against the Anderson County Sheriff's Department for failure to state a claim upon which relief can be granted pursuant to 28 U.S.C. § 1915(e)(2)(b).

So ordered by the court on March 4, 2022.

A handwritten signature in black ink, appearing to read "J. Campbell Barker", is written over a horizontal line.

J. CAMPBELL BARKER
United States District Judge